

**COPY**

JUDGE PAULEY

**13 CV 7572**

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Attorney for Plaintiff

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X  
SABRINA PENCEAL, SHIREEF )  
JONES and KRISTY WALDRIP, )  
Individually and on behalf of )  
all others similarly )  
situated, )

Plaintiffs, )

vs. )

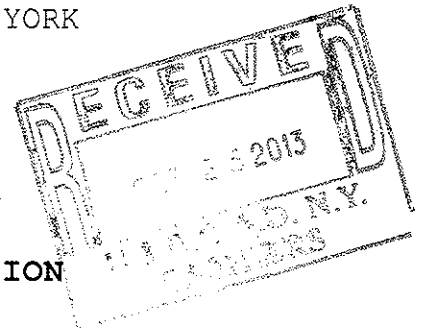
EMPIRE BEAUTY SCHOOL INC., EEG )  
INC., EEG LLC, CHIC SCHOOLS, )  
INC., EMPIRE EDUCATION GROUP, )  
INC., FRANK SCHOENEMAN, MICHAEL )  
D. BOUMAN, REGIS CORPORATION, )  
and "John Doe Entities", name )  
fictitious, name and number )  
unknown, all conducting )  
business as the Empire )  
Education Group, )

Defendants. )

Case No.:

COMPLAINT

CLASS ACTION



COMES NOW PLAINTIFFS, on behalf of themselves and all others  
similarly situated and on behalf of the general public, hereby  
allege:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the claims alleged herein  
because Plaintiffs seek relief pursuant to the Fair Labor Standards  
Act ("FLSA") for the Defendants' failure to pay minimum wages and/or

1 overtime wages as required by 29 U.S.C. § 201-218 et. seq. The  
2 employment relationship alleged to exist between the parties is  
3 subject to the FLSA because the defendants are properly deemed  
4 "employers" within the meaning of the FLSA as they have in excess of  
5 \$500,000 in yearly revenue and the employment alleged involved the  
6 use or handling of goods that have moved or were moving in  
7 interstate commerce, as those terms are defined in the FLSA.

8 2. The Court has supplemental and original jurisdiction over  
9 the State Law claims alleged herein pursuant to 28 U.S.C. § 1367(a)  
10 and the Class Action Fairness Act of 2005, 28 USCS § 1332 ("CAFA").  
11 Supplemental jurisdiction is properly exercised over such state law  
12 claims which present many overlapping and identical issues of law  
13 and fact as the FLSA claims. CAFA jurisdiction is properly  
14 exercised over such state law claims as the value of those claims  
15 are believed to exceed \$5,000,000 on behalf of the alleged class and  
16 the citizenship of the parties meets the diversity requirements of  
17 CAFA and the other conditions for this Court to assert jurisdiction  
18 under CAFA over such claims are present.

19 3. Venue is properly placed in this Court as the defendants'  
20 largest single place of employment of the class members which gives  
21 rise to the class members' claims is located in the State, City and  
22 County of New York and the plaintiff Sabrina Penceal performed the  
23 uncompensated labor for the defendants giving rise to her claims  
24 made herein at that location.

#### 25 **PARTIES**

26 4. Plaintiff, Sabrina Penceal (one of the "Named Plaintiffs  
27 or "Plaintiffs" or "Class Members"), resides in Richmond County, New  
28 York.

1        5. Plaintiff, Shireef Jones (one of the "Named Plaintiffs or  
2 "Plaintiffs" or "Class Members"), resides in Philadelphia County,  
3 Pennsylvania and performed uncompensated labor for defendants in  
4 Pennsylvania.

5        6. Plaintiff, Kristy Waldrip (one of the "Named Plaintiffs or  
6 "Plaintiffs" or "Class Members"), resides in Adams County, Colorado  
7 and performed uncompensated labor for defendants in Colorado.

8        7. Defendant Empire Beauty School Inc. (one of the "Empire  
9 Corporation" defendants) is a corporation formed and existing under  
10 the laws of the State of Pennsylvania and which is duly registered  
11 to conduct business in the State of New York and has specified in  
12 its filings with the New York Secretary of State that its principle  
13 place of business or headquarters or county of residence in the  
14 State of New York is in New York County.

15        8. Defendant EEG Inc. (one of the "Empire Corporation"  
16 defendants) is a corporation formed and existing under the laws of  
17 the State of Delaware and which is authorized to conduct business in  
18 various states besides the State of Delaware.

19        9. Defendant EEG LLC (one of the "Empire Corporation"  
20 defendants) is a limited liability corporation formed and existing  
21 under the laws of the State of Delaware and which is authorized to  
22 conduct business in various states besides the State of Delaware.

23        10. Defendant Chic Schools, Inc. (one of the "Empire  
24 Corporation" defendants) is a corporation formed and existing under  
25 the laws of the State of Michigan.

26        11. Defendant Empire Education Group, Inc. (one of the "Empire  
27 Corporation" defendants) is a corporate name that the defendants  
28 have used publicly and which has been publicly reported in a fashion

1 implying that it is actually the same entity as EEG Inc. or EEG LLC  
2 and to the extent such defendant does exist as a separate corporate  
3 entity its jurisdiction of incorporation is unknown.

4 12. Defendant "John Doe Entities," name fictitious, true name  
5 and number unknown, are one or more entities that, like one or more  
6 of the "Empire Corporation" defendants, are used by the defendants  
7 to conduct the business operations alleged herein that give rise to  
8 the claims made in this Complaint. Such John Doe entities will be  
9 identified in the future as such information is acquired during the  
10 course of these proceedings and the pleadings appropriately amended  
11 to reflect their true names.

12 13. The activities (the "Empire Beauty School" or "Empire  
13 Beauty School Business") hereinafter described giving rise to the  
14 claims made in this case have been conducted by one or more of the  
15 defendants through the use of one or more of the Empire Corporation  
16 defendants and/or one or more of the "John Doe" entity defendants.

17 14. Defendant Regis Corporation ("Regis") is a corporation  
18 formed and existing under the laws of the State of Minnesota and its  
19 stock is publicly traded on the New York Stock Exchange.

20 15. Defendant Regis Corporation is a 49% owner of the Empire  
21 Beauty School Business through its ownership, either directly or  
22 through one or more intermediaries, of one or more Empire  
23 Corporation defendants and/or one or more of the "John Doe" entity  
24 defendants.

25 16. Defendant Frank Schoeneman ("Schoeneman") is an officer  
26 and/or director of one or more of the Empire Corporation defendants  
27 and/or one or more of the "John Doe" entity defendants.

28 17. Defendant Frank Schoeneman is a 51% owner of the Empire

1 Beauty School Business through his ownership, either directly or  
2 through one or more intermediaries, of one or more Empire  
3 Corporation defendants and/or one or more of the "John Doe" entity  
4 defendants.

5 18. Defendant Michael D. Bouman ("Bouman") is the President  
6 and Chief Operating Officer of the Empire Beauty School Business as  
7 a result of his status as an officer of one or more of the Empire  
8 Corporation Defendants.

9 19. The Empire Beauty School Business is conducted by the  
10 defendants in Arizona, Colorado, Florida, Georgia, Illinois,  
11 Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan,  
12 Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania,  
13 Rhode Island, Tennessee, Virginia and Wisconsin. It maintains over  
14 100 places of operation and is the largest beauty school business  
15 operation, both in terms of students, revenue, and number of  
16 locations, in the United States. During the time period relevant to  
17 this complaint it has operated its business under a variety of names  
18 including the Empire Beauty School name.

19 **CLASS ACTION AND REPRESENTATIVE ALLEGATIONS**

20 20. The named Plaintiffs bring this action on their own  
21 behalf, and on behalf of the class of all persons similarly situated  
22 and on behalf of the general public.

23 21. The class consists of all persons who were, as alleged  
24 herein, wholly uncompensated employees of the Defendants in their  
25 profit making personal services businesses under the FLSA, such  
26 class claims being brought pursuant to 29 U.S.C. § 216(b) which  
27 authorizes lawsuits on behalf of others similarly situated, such  
28 lawsuits often referred to as "collective" and not "class" actions.

1 Some or all of such persons who are alleged to be similarly situated  
2 and members of the FLSA class are also entitled to relief under the  
3 laws of the States of Arizona, Colorado, Florida, Georgia, Illinois,  
4 Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan,  
5 Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania,  
6 Rhode Island, Tennessee, Virginia and Wisconsin (the "state  
7 claims"), as alleged herein. It is asserted that the state claims  
8 are properly subject to class action treatment under FRCP Rule 23  
9 for the reasons alleged herein.

10 22. The class claims asserted in paragraph 21 encompass under  
11 the FLSA the time period from three years prior to the commencement  
12 of this action through the date of any judgment, such claims  
13 encompassing for state law purposes the statute of limitations  
14 applicable to each state's law as determined by the date of the  
15 commencement of this action through the date of any judgment.

16 23. The class of persons identified in paragraph 21 is in  
17 excess of 1000 and is so numerous that the joinder of each member of  
18 the class is impracticable.

19 24. There is a well-defined community of interest in the  
20 questions of law and fact affecting the class the named plaintiffs  
21 propose to represent. The class members' claims against defendants  
22 involve questions of common or general interest, in that their  
23 claims are based on defendants' failure to pay any wages whatsoever  
24 to such persons despite the FLSA's requirement, as alleged herein,  
25 that such persons be paid at least the minimum hourly wage provided  
26 for in 29 U.S.C. § 206, such conduct also violating the legal  
27 obligations imposed upon the defendants under the various state laws  
28 alleged herein. These questions are such that proof of a state of

1 facts common to the members of the class will entitle each member of  
2 the class to the relief requested in this Complaint.

3       25. The named plaintiffs will fairly and adequately represent  
4 the interests of the class, because the named plaintiffs are members  
5 of the class and the claims of the named plaintiffs are typical of  
6 the claims of those in the class. The named plaintiffs have  
7 retained experienced counsel competent to represent the class, the  
8 adjudication of the putative FRCP Rule 23 class claims on a class  
9 action basis is superior to other means of adjudication of such  
10 claims and/or is desirable based upon the common actions of the  
11 defendants towards the class and/or the risk of inconsistent  
12 adjudications and uncertainty regarding the proper standard of  
13 conduct by the defendants if such claims were subject to multiple  
14 individual litigations and/or the other criteria of FRCP Rule 23 are  
15 met warranting the class action certification of such claims.

16       26. If necessary to preserve the Court's jurisdiction over  
17 and power to adjudicate the claims made in this case, and prevent  
18 those claims from being subject to individual arbitration, the named  
19 plaintiffs expressly stipulate that each of them and each member of  
20 the putative class shall limit their individual recovery to the  
21 amount that would be within the jurisdiction of the small claims  
22 court.

23                   **RELEVANT FACTS OF THE DEFENDANTS' BUSINESS**  
24                   **OPERATIONS AND THE PARTIES' RELATIONSHIP**

25       27. Defendants operate the Empire Beauty School Business as a  
26 for-profit business, meaning it is not registered with, or  
27 recognized by, any State or the United States as a non-profit or  
28 charitable enterprise.



1        28. The defendants' Empire Beauty School Business is a for-  
2 profit business, meaning the legal entities through which such  
3 business is conducted are required by law to file tax information  
4 reports or tax returns with the United States Internal Revenue  
5 Service and on those filings such entities are not indicated to be a  
6 charity or non-profit business within the meaning of the statutes  
7 and regulations that govern their obligation to file those reports  
8 or returns.

9        29. The defendants' for-profit activities that are part of  
10 the Empire Beauty School Business include providing educational  
11 services (the "educational services business") to paying students in  
12 the cosmetological trades, which includes training students to  
13 practice, as regulated by various state laws, the trades of  
14 cosmetology, barbering, esthetics or skin care, makeup artistry and  
15 manicuring.

16        30. The defendants' for-profit activities that are part of  
17 the Empire Beauty School Business include the providing of personal  
18 services, for a fee, to members of the public (the "personal  
19 services business") who in exchange for paying such a fee receive  
20 cosmetology, barbering, esthetics or skin care, makeup artistry or  
21 manicuring services.

22        31. The Empire Beauty School's personal services business is  
23 designed to generate a profit for defendants and does generate a  
24 profit for the defendants and the revenue defendants receive from  
25 the fees the Empire Beauty School charges to the public for the  
26 personal services provided by such business exceed the value of the  
27 materials, if any, that such members of the public consume during  
28 the receipt of such services.



1        32. The Empire Beauty School utilizes the labor of the class  
2 members, who have also purchased the educational services provided  
3 by the Empire Beauty School, in the Empire Beauty School's personal  
4 services business.

5        33. The class members are paid no compensation by the Empire  
6 Beauty School for the labor they provide in Empire Beauty School's  
7 personal services business, meaning they receive no payments in  
8 United States currency or in instruments that are convertible as a  
9 matter of law into such currency in exchange for furnishing such  
10 labor.

11        34. The labor provided by the class members in the Empire  
12 Beauty School's personal services business was and is essential to  
13 that business, in that the labor needed to provide the personal  
14 services to the members of the public, for which such members of the  
15 public paid a fee to the Empire Beauty School, was furnished  
16 exclusively or predominately by the class members.

17        35. Without the labor provided by the class members, the  
18 Empire Beauty School's personal services business would either cease  
19 to operate or it would have to secure labor from other persons who  
20 would have to be compensated at a minimum hourly wage as required by  
21 the FLSA and such state laws.

22        36. The Empire Beauty School actively promotes and advertises  
23 its personal services business to the public on its website and  
24 through other means and induces the purchase of those services by  
25 offering them to members of the public at a cost lower than the cost  
26 typically charged by other business that provide such services and  
27 do not utilize uncompensated labor to provide such services. The  
28 Empire Beauty School website promotes the same by expressly advising

1 that "Empire Beauty School offers a variety of hair services at each  
2 of our cosmetology school locations" and by posting a list of many  
3 of the typical prices it charges for those services.

4 37. The Empire Beauty School competes with other profit  
5 making businesses that provide the same personal services that it  
6 provides to the members of the public, in that members of the public  
7 have available to them other providers of such personal services  
8 besides the Empire Beauty School who, for a fee, will provide such  
9 personal services.

10 38. The Empire Beauty School is able to advantageously  
11 compete with other profit making businesses that provide the same  
12 personal services that it provides to the members of the public by  
13 charging members of the public lower fees for such services than  
14 those charged by its competitors.

15 39. The Empire Beauty School's ability to provide the same  
16 personal services to members of the public as are provided by its  
17 competitors, and earn a profit by doing so despite charging less for  
18 those services than its competitors, is either substantially or  
19 entirely the result of the Empire Beauty School enjoying lower  
20 operating costs in its personal services business because it  
21 provides such services to the public using the class members' unpaid  
22 labor while its competitors must pay at least the minimum hourly  
23 wage required by the FLSA or state law to their employees who  
24 provide the same labor and services to the public.

25 40. The Empire Beauty School could have the class members  
26 provide personal services to the public without charge, or only for  
27 a charge equivalent to the actual cost, if any, of the materials  
28 consumed in providing such personal services.

1        41. The defendants have made a conscious decision to not have  
2 the class members provide personal services to the public without  
3 charge, or only for a charge equivalent to the actual cost, if any,  
4 of the materials consumed in providing such personal services.

5        42. The defendants have made a conscious decision to not have  
6 the class members provide personal services to the public without  
7 charge, or only for a charge equivalent to the actual cost, if any,  
8 of the materials consumed in providing such personal services, and  
9 have made that decision so the Empire Beauty School can operate a  
10 profit making personal services business that competes with other  
11 enterprises that also provide such personal services and are not in  
12 the educational services business.

13        43. While the class members' labor in the Empire Beauty  
14 School's personal services business benefits them in securing  
15 experience providing such personal services and in achieving their  
16 ultimate goal of being licensed to practice their desired  
17 occupation, defendants' decision to operate the Empire Beauty  
18 School's personal services business as a profit making venture is  
19 irrelevant to the class members' education and occupational goals.  
20 This is because the class members would enjoy the exact same benefit  
21 if the Empire Beauty School did not charge members of the public any  
22 fee for such personal services, or if it only charged a fee  
23 sufficient to cover the actual cost of the materials, if any,  
24 consumed by such members of the public while receiving such personal  
25 services.

26        44. The Empire Beauty School's educational services business  
27 neither requires nor benefits from the defendants' decision to  
28 charge members of the public for providing personal services and to

1 carry on a profit making personal services business utilizing the  
2 unpaid labor of the class members.

3       45. The defendants' carrying on of a for profit personal  
4 services business, utilizing the unpaid labor of the class members,  
5 has the effect of depressing wages and employment opportunities  
6 generally among workers who would otherwise provide those personal  
7 services. That depression of wages and employment opportunities  
8 arises because the Empire Beauty School is paying nothing whatsoever  
9 for the class members' labor it uses to provide such services, which  
10 in turn results in it being able to conduct a profit making personal  
11 services business that charges members of the public less than its  
12 competitors must charge, such competitors paying at least the  
13 minimum hourly wage required by the FLSA and state law to their  
14 employees. Such ability of the defendants to secure labor for the  
15 Empire Beauty School's profit making personal services business,  
16 without paying at least the minimum hourly wage required by the FLSA  
17 and state law for that labor, results in other businesses providing  
18 the same personal services and that do pay such minimum hourly wages  
19 being unable to increase the wages of their workers above that  
20 minimum hourly amount or hire more workers to provide such services.  
21 Such other businesses are unable to do those things as a direct and  
22 proximate result of defendants' utilization of the class members'  
23 unpaid labor in the Empire Beauty School's personal services  
24 business and the Empire Beauty School's ability, as a result of such  
25 utilization, to sell such personal services to the public for less  
26 than such other businesses could charge and still make a profit.

27       46. The amount of hours of unpaid labor that the class  
28 members performed in the Empire Beauty School's personal services

1 business is known to the defendants who kept detailed  
2 contemporaneous records of those hours of work and in respect to  
3 each of the named plaintiffs such hours of work were in excess of  
4 500 hours.

5 **HOW THE RELEVANT FACTS ESTABLISH AN**  
6 **EMPLOYMENT RELATIONSHIP FOR THE PURPOSES**  
7 **OF THE FLSA AND STATE LAW**

8 47. The relationship between the Empire Beauty School and the  
9 putative class members, in respect to the labor provided by the  
10 putative class members in the Empire Beauty School's personal  
11 services business, is one of employer and employee for the purposes  
12 of the FLSA and state law. That employment relationship exists for  
13 the following reasons:

14 (a) The class members provided labor in the Empire Beauty  
15 School's personal services business that was immediately  
16 advantageous to defendants and the profitability of such  
17 business was substantially or wholly dependent upon such  
18 labor;

19 (b) The class members, while receiving a benefit from  
20 their labor in the Empire Beauty School's personal  
21 services business in the form of experience that assisted  
22 them in achieving their occupational goals, were  
23 simultaneously conferring a valuable economic benefit  
24 upon the defendants, which were charging the public for  
25 the services of the class members and profiting from such  
26 charges;

27 (c) The class members' labor in the Empire Beauty  
28 School's personal services business displaced or made  
unnecessary the employment of the persons the Empire

1 Beauty School would have otherwise had to employ, and pay  
2 wages to, for the performance of the labor that the class  
3 members furnished and from which the defendants profited;  
4 (d) Certain of the class members' labor did not and could  
5 not confer any educational or occupational benefit  
6 whatsoever upon such class members, in that the class  
7 members, or some of them, were required by defendants to  
8 spend time not actually performing personal services on  
9 customers but performing manual labor or administrative  
10 functions including, but not limited to, janitorial,  
11 clerical or logistical functions, that were essential and  
12 necessary for the conducting of the Empire Beauty  
13 School's personal services business but which had no  
14 educational purpose or benefit to the class members and  
15 for which time expenditures defendants failed and refused  
16 to pay the class members any wages whatsoever; and  
17 (e) For the reasons stated in paragraph 45, as  
18 the Empire Beauty School's utilization of the unpaid  
19 labor of the class members in a commercial, for-profit,  
20 personal services business depresses the wages of  
21 employees in that industry and lessens the employment  
22 opportunities in that industry.

23 **HOW THE RELEVANT FACTS RENDER THE**  
24 **DEFENDANTS OTHER THAN THE EMPIRE**  
25 **CORPORATIONS LEGALLY RESPONSIBLE**  
26 **FOR THE PLAINTIFFS' CLAIMS**

27 48. The defendants Regis, Schoeneman and Bouman, by virtue of  
28 their ownership and/or control of the Empire Beauty School Business,  
were empowered to make, and did make, the decisions to have the

1 Empire Beauty School institute and/or continue the defendants'  
2 practices that are alleged to have created an employer and employee  
3 relationship between Empire Beauty School and the plaintiffs and the  
4 class members for the purposes of the FLSA and state minimum wage  
5 laws that are alleged in this complaint, such actions by Regis,  
6 Schoeneman and Bouman also causing the violations of the FLSA and  
7 state law alleged in this complaint.

8       49. The defendants Regis, Schoeneman and Bouman, by virtue of  
9 their ownership and/or control of the Empire Beauty School Business  
10 could have, but did not, make the decision to have the Empire Beauty  
11 School discontinue the defendants' practices that are alleged to  
12 have created an employer and employee relationship between the  
13 Empire Beauty School and the plaintiffs and the class members for  
14 the purposes of the FLSA and the state minimum wage laws that are  
15 alleged in this complaint, such actions by Regis, Schoeneman and  
16 Bouman also causing the violations of the FLSA and state law alleged  
17 in this complaint.

18       50. The defendants Regis, Schoeneman and Bouman, despite  
19 having the power to do so, did not direct the Empire Beauty School  
20 to discontinue the practices that are alleged to have created an  
21 employer and employee relationship between the Empire Beauty School  
22 and the plaintiffs and the class members for the purposes of the  
23 FLSA and the state minimum wage laws that are alleged in this  
24 complaint, such actions by Regis, Schoeneman and Bouman also causing  
25 the violations of the FLSA and state law alleged in this complaint.  
26 The defendants Regis, Schoeneman and Bouman failed to take such  
27 action because doing so would have diminished the profits of the  
28 Empire Beauty School and such diminishment of profits would have in



1 turn diminished the financial returns enjoyed by defendants Regis,  
2 Schoeneman and Bouman from their ownership or control of the Empire  
3 Beauty School.

4 51. The defendants Regis, Schoeneman and Bouman became aware,  
5 at least six years prior to the commencement of this action, that  
6 the personal services business of the Empire Beauty School was an  
7 important and profitable business activity of the Empire Beauty  
8 School.

9 52. The defendants Regis, Schoeneman and Bouman became aware,  
10 at least six years prior to the commencement of this action, that  
11 the personal services business of the Empire Beauty School relied  
12 upon the unpaid labor of the class members.

13 53. The defendants Regis, Schoeneman and Bouman, after they  
14 became aware that the personal services business of the Empire  
15 Beauty School relied upon the unpaid labor of the class members,  
16 made no attempt to ascertain whether the Empire Beauty School's use  
17 in its personal services business of the unpaid labor of the class  
18 members was in compliance with the FLSA or the state minimum wage  
19 laws in the states where the Empire Beauty School operated.

20 54. The defendants Regis, Schoeneman and Bouman, after they  
21 became aware that the personal services business of the Empire  
22 Beauty School relied upon the unpaid labor of the class members, and  
23 prior to the occurrence of the injuries sustained by the plaintiffs  
24 and the class members, were made aware that the use of unpaid  
25 student labor by a private for profit cosmetology school in a profit  
26 making personal services business might violate the FLSA. The  
27 defendants Regis, Schoeneman and Bouman, despite that knowledge,  
28 made no attempt to change the Empire Beauty School's practice of

1 using uncompensated student labor in a profit making personal  
2 services business.

3       55. The defendants Regis, Schoeneman and Bouman, after they  
4 became aware that the personal services business of the Empire  
5 Beauty School relied upon the unpaid labor of the class members, and  
6 prior to the occurrence of the injuries sustained by the plaintiffs  
7 and the class members, were made aware that the use of unpaid  
8 student labor by a private for profit cosmetology school in a profit  
9 making personal services business either did violate the FLSA or had  
10 been found by at least one court to violate the FLSA. The  
11 defendants Regis, Schoeneman and Bouman, despite that knowledge,  
12 made no attempt to change the Empire Beauty School's practice of  
13 using uncompensated student labor in a profit making personal  
14 services business.

15       56. In light of the foregoing set of facts, the defendants  
16 Regis, Schoeneman and Bouman are properly deemed "employers" of the  
17 plaintiffs and the class members within the meaning of the FLSA and  
18 the state laws alleged in that defendants Regis, Schoeneman and  
19 Bouman were acting as decision making "agents of an employer" and  
20 were the controlling persons of the Empire Beauty School Business  
21 and the beneficial owners of the Empire Beauty School with the power  
22 to implement, continue and/or terminate the illegal policies and  
23 practices that are alleged to have violated the FLSA and the state  
24 laws that are alleged in this complaint. The defendants Regis,  
25 Schoeneman and Bouman not only were vested with such powers, but  
26 also knowingly exercised such powers to continue the violations of  
27 the FLSA and the state laws that are alleged in this complaint  
28 and/or they acquiesced to the continuation of such violations

1 despite having the power and duty to prevent and stop the same. The  
2 imposition of such liability upon the defendants Schoeneman and  
3 Bouman is also proper because they expressly directed the Empire  
4 Corporation Defendants to commit the criminal acts that violated the  
5 FLSA and the state laws alleged and as a result should be held  
6 civilly liable for such violations of law.

7 **FIRST CLAIM FOR RELIEF UNDER**  
8 **THE FAIR LABOR STANDARDS ACT**

9 57. Plaintiffs hereby incorporate each and every allegation  
10 contained in this Complaint above and reallege said allegations as  
11 though fully set forth herein.

12 58. Pursuant to the applicable provisions of the FLSA, 29  
13 U.S.C. § 206 and § 207, the named plaintiffs and those similarly  
14 situated were entitled to at least the minimum hourly wage, which is  
15 currently \$7.25 an hour, for each hour that they labored in  
16 defendants' personal services business and in the event they worked  
17 more than 40 hours a week an overtime hourly wage of time and one-  
18 half such minimum hourly wage for all hours worked in excess of 40  
19 hours per week.

20 59. The named plaintiffs and those similarly situated were  
21 paid no monetary compensation whatsoever by the defendants for  
22 performing labor for the defendants as employees in the defendants'  
23 personal services business, such failure to pay the plaintiffs and  
24 the class members any compensation whatsoever violating the minimum  
25 hourly wage requirements of 29 U.S.C. § 206 and, in the event any of  
26 the class members or plaintiffs ever worked in excess of 40 hours in  
27 a week, the overtime pay requirements of 29 U.S.C. § 207.

28 60. Defendants' aforesaid violations of the FLSA were willful

1 in that defendants were aware they were running a for profit  
2 personal services business and were treating the class members like  
3 employees and defendants also were aware that employees of profit  
4 making personal services businesses are covered by the minimum  
5 hourly wage requirements of the FLSA.

6 61. The named plaintiffs on behalf of themselves and all  
7 other similarly situated persons who consent in writing to join this  
8 action, it also being proposed that all such persons be notified of  
9 this action through the dispatch of a written notice to the last  
10 known names and addresses of such persons that are set forth in the  
11 defendants' records or that can otherwise be ascertained, seek, on  
12 this First Claim for Relief, a judgment for unpaid minimum wages and  
13 overtime wages and additional liquidated damages of 100% of any such  
14 unpaid wages, such sums to be determined based upon an accounting of  
15 the hours worked by the named plaintiffs and any such other persons  
16 who consent to join this action, and the plaintiffs also seek an  
17 award of attorney's fees, interest and costs as provided for by the  
18 FLSA.

19 **SECOND CLAIM FOR RELIEF UNDER**  
20 **STATE LAWS REQUIRING A MINIMUM HOURLY WAGE**  
21 **AND UNDER CERTAIN CIRCUMSTANCES AN OVERTIME WAGE**

22 62. Plaintiffs hereby incorporate each and every allegation  
23 contained in this Complaint above and reallege said allegations as  
24 though fully set forth herein.

25 63. The conduct alleged by the defendants also constituted a  
26 violation of the laws of the states of Arizona, Colorado, Florida,  
27 Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan,  
28 Minnesota, New Jersey, New York, Ohio, Pennsylvania, Rhode Island  
and Wisconsin that require the payment of minimum hourly wages and

1 in some instances overtime wages of one and one-half times the  
2 minimum hourly wage, and that authorize civil suits to collect the  
3 same including, but not necessarily limited to, the following:

4 (a) Arizona Statutes, §§ 23-363, 23-364 (Requiring payment of  
5 minimum hourly wages and providing for enforcement of  
6 that right through civil action);

7 (b) Colorado Statutes Title 8, Article 6, and the Minimum  
8 Wage Order(s) issued thereunder, and Section 15 of  
9 Article XVIII of Colorado's Constitution providing for  
10 the payment of minimum wages;

11 (c) Florida Constitution Article X, Section 24, providing for  
12 the payment of minimum wages;

13 (d) Illinois Statutes Chapter 820, Section 105 et seq.;

14 (e) Kentucky Revised Statutes 337.275;

15 (f) Maine Revised Statutes Title 26, Section 664;

16 (g) Maryland Labor and Employment Code § 3-413;

17 (h) Massachusetts Statutes Chapter 151, § 1 (setting forth  
18 minimum hourly wage) §§ 1A and 1B; (requiring overtime  
19 wages and authorizing civil actions to collect the same);  
20 § 20 (authorizing civil actions to enforce minimum hourly  
21 wage claims);

22 (i) Michigan Statutes Section 408.384;

23 (j) Minnesota Fair Labor Standards Act, Minnesota Statutes  
24 Chapter 177;

25 (k) New Jersey Statutes Section 34:11-56a4;

26 (l) New York Labor Law Section 652;

27 (m) Ohio Constitution Section 34a of Article II and Chapter  
28 4111 of the Ohio Revised Code;

1 (n) Pennsylvania Statutes, Title 43, Chapter 8, Section  
2 333.104;

3 (o) Rhode Island General Laws § 28-12-3;

4 (p) Wisconsin Statutes Chapter 104 and applicable provisions  
5 of the Wisconsin Administrative Code issued to implement  
6 the same.

7 64. Defendants' alleged conduct has deprived all of the class  
8 members who worked for the defendants in the states of Arizona,  
9 Colorado, Florida, Illinois, Kentucky, Maine, Maryland,  
10 Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio,  
11 Pennsylvania, Rhode Island and Wisconsin of the minimum wages and in  
12 some instances overtime wages owed to such class members pursuant to  
13 such states' laws.

14 65. The named plaintiffs, on behalf of themselves and the  
15 plaintiff class, seek a judgment against all defendants for all  
16 minimum wages, overtime wages, and liquidated damages and all other  
17 damages and monetary relief authorized by the state laws of Arizona,  
18 Colorado, Florida, Illinois, Kentucky, Maine, Maryland,  
19 Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio,  
20 Pennsylvania, Rhode Island and Wisconsin for violations of such  
21 states' minimum wage or overtime wage payment requirements.

22 66. The named plaintiffs, on behalf of themselves and the  
23 plaintiff class, also seek declaratory and equitable relief in the  
24 form of a declaration on the illegality of defendants' practices and  
25 in the form of a suitable injunction restraining defendants from  
26 continuing to violate the minimum wage and overtime wage payment  
27 requirements of the states of Arizona, Colorado, Florida, Illinois,  
28 Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New

Jersey, New York, Ohio, Pennsylvania, Rhode Island and Wisconsin.

**THIRD CLAIM FOR RELIEF UNDER  
STATE STATUTES REQUIRING THE  
PAYMENT OF EARNED AND UNPAID WAGES**

67. Plaintiffs hereby incorporate each and every allegation contained in this Complaint above and reallege said allegations as though fully set forth herein.

68. The conduct of the defendants, in failing to pay the minimum hourly wages required by the FLSA and in certain circumstances the law of the state where class members were working, has also violated the requirements of certain state statutes that expressly require the payment of full and properly earned wages to employees, including, but not necessarily limited to, the following:

- (a) Arizona Revised Statutes, §§ 23-351, 23-355, 23-353  
(Requiring semi-monthly payment of wages, payment of wages to terminated employees, providing for statutory claim to recover triple the amount of any unpaid wages);
- (b) Colorado Statutes Title 8, Article 4, Sections 103 and 110 (Setting forth frequency of required payment of wages and authorizing civil actions to remedy violations);
- (c) Georgia Code § 34-7-2;
- (d) Illinois Statutes Chapter 820, Section 115/11 et seq.;
- (e) Indiana Code 22-2-5-1;
- (f) Kentucky Revised Statutes 337.020;
- (g) Maine Revised Statutes Title 26, Sections 621-A and 626;
- (h) Maryland Labor and Employment code § 3-507 and 3-502.
- (i) Massachusetts Statutes Chapter 149, § 148 (requiring regular payment of all earned wages) § 150 (specifying civil action authorized for violations of § 148 and award



of triple damages);

(j) Michigan Statutes Section 408.384;

(k) Minnesota Statutes § 181.10, 181.171;

(l) New Jersey Statutes §34:11-4.2 and § 34:11-4.7;

(m) New York Labor Law Section 198;

(n) North Carolina General Statutes 95-25.6 through 95-25.12  
and 95-25.22;

(o) Ohio Revised Code Sec. 4113.15;

(p) Pennsylvania's Wage Payment and Collection Law, Title 43,  
Chapter 8, Section 43 of Pennsylvania Statutes, including  
43 P.S. § 260.9a and its other applicable provisions;

(q) Rhode Islands Payment of Wages Law, Rhode Island General  
Laws Title 28, Chapter 14, including § 28-14-19.2 and its  
other applicable provisions;

(r) Tennessee Code Annotated § 50-2-103;

(s) Wisconsin Statutes Chapter 109 and applicable provisions  
thereof including Wis. Stat. § 109.03.

69. Defendants' alleged conduct has deprived all of the class  
members who worked for the defendants in the states of Arizona,  
Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Maine,  
Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York,  
Ohio, North Carolina, Pennsylvania, Rhode Island, Tennessee and  
Wisconsin of the wages defendants were legally required to pay them  
pursuant to such states' laws.

70. The named plaintiffs, on behalf of themselves and the  
plaintiff class, seek a judgment against all of the defendants for  
all of the wages and liquidated damages and all other damages and  
monetary relief authorized by the state laws of Arizona, Colorado,

1 Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland,  
2 Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio,  
3 North Carolina, Pennsylvania, Rhode Island, Tennessee and Wisconsin  
4 as a result of defendants' failure to pay the named plaintiffs and  
5 class members the wages defendants were legally required to pay them  
6 pursuant to such states' laws.

7 71. The named plaintiffs, on behalf of themselves and the  
8 plaintiff class, also seek declaratory and equitable relief in the  
9 form of a declaration on the illegality of defendants' practices and  
10 in the form of a suitable injunction restraining defendants from  
11 continuing to fail to pay the wages of the class members, as  
12 required by the laws of Arizona, Colorado, Florida, Georgia,  
13 Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts,  
14 Michigan, Minnesota, New Jersey, New York, Ohio, North Carolina,  
15 Pennsylvania, Rhode Island, Tennessee and Wisconsin.

16 **FOURTH CLAIM FOR RELIEF UNDER**  
17 **STATE STATUTES IMPOSING PENALTIES OR**  
18 **CONTINUING WAGE PAYMENT OBLIGATIONS**

19 72. Plaintiffs hereby incorporate each and every allegation  
20 contained in this Complaint above and reallege said allegations as  
21 though fully set forth herein.

22 73. The conduct of the defendants, in failing to pay the  
23 wages of the plaintiffs and the class members as required by the  
24 laws of the states where certain class members were working, has  
25 also made the defendants become liable to such class members for the  
26 payment of additional penalties provided for by statute and/or  
27 continuing wages to such persons or other monetary damages,  
28 including, but not necessarily limited to, the following:

(a) Arizona Revised Statutes, § 23-355 (providing for triple

damages on unpaid wage claims);

(b) Colorado Statutes Title 8, Article 4, Section 109;

(c) Illinois Statutes Chapter 820, Sections 120/12(a) and 115/14(a) et seq.;

(d) Indiana Code 22-2-5-1, 22-2-9-4 & 22-2-5-2;

(e) Kentucky Revised Statutes 337.385(1);

(f) Maine Revised Statutes Title 26, Section 626;

(g) Maryland Labor and Employment code § 3-507.1(b);

(h) Massachusetts Statutes Chapter 149, § 148 (requiring regular payment of all earned wages) § 150 (specifying civil action authorized for violations of § 148 and award of triple damages);

(i) Michigan Statutes Section 408.393;

(j) Minnesota Statutes § 181.13;

(k) New York Labor Law Section 198;

(l) North Carolina General Statutes 95-25.22;

(m) Pennsylvania's Wage Payment and Collection Law, Title 43, Chapter 8, Section 43 of Pennsylvania Statutes, including 43 P.S. § 260.10 and its other applicable provisions;

(n) Wisconsin Statutes 109.11.

74. Defendants' alleged conduct, in failing to pay the class members who worked for the defendants in the states of Arizona, Colorado, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New York, North Carolina, Pennsylvania and Wisconsin the wages defendants were legally required to pay them either under the laws of such states or the FLSA has given rise to a claim for monetary damages, in an amount in addition to such unpaid wages, pursuant to such states' laws.

1        75. The named plaintiffs, on behalf of themselves and the  
2 plaintiff class, seek a judgment against all defendants for all  
3 damages and monetary relief authorized by the state laws of  
4 Arizona, Colorado, Illinois, Indiana, Kentucky, Maine, Maryland,  
5 Massachusetts, Michigan, Minnesota, New York, North Carolina,  
6 Pennsylvania and Wisconsin, alleged in this claim for relief, the  
7 same arising as a result of defendants' failure to pay the  
8 plaintiffs and the class members the wages defendants were legally  
9 required to pay them pursuant to such states' laws or the FLSA.

10        NOW THEREFORE, Plaintiffs pray for relief for themselves and  
11 all class members as follows:

12  
13        1. Judgment against all defendants for unpaid minimum wages  
14 and overtime wages and additional liquidated damages of 100% of any  
15 unpaid minimum wages and overtime wages pursuant to the FLSA along  
16 with an award of costs and attorney's fees;

17  
18        2. Judgment against all defendants for unpaid minimum wages  
19 and overtime wages as required by the applicable state laws  
20 governing defendants in the states where defendant employed the  
21 plaintiffs and the class members;

22  
23        3. Judgment against all defendants for continuing wages and  
24 statutory penalties and damages as required by the applicable state  
25 laws governing defendants in the states where defendants employed  
26 the plaintiffs and the class members;

27  
28        4. Equitable, declaratory and injunctive relief including

1 restitution and restraint of defendants' actions in the future under  
2 applicable state laws;

3  
4 5. Costs, litigation expenses and disbursements, interest and  
5 reasonable attorney's fees; and

6  
7 6. Such further relief the court deems just and reasonable.

8 Plaintiffs also demand a trial by jury on all claims subject to  
9 a trial by jury.

10 Dated this 24th day of October, 2013

11 Leon Greenberg, Esq.

12  
13 By: 

14 Leon Greenberg, Esq.  
15 2965 South Jones Boulevard E-4  
16 Las Vegas, NV 89146  
17 (702) 383-6085  
18 leongreenberg@overtimelaw.com  
19 Attorney for Plaintiffs  
20  
21  
22  
23  
24  
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27  
28

CONSENT TO JOINDER

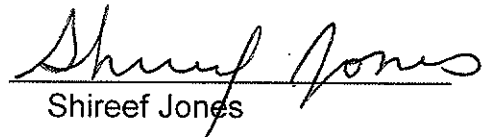
Sabrina Penceal, by signing  
below, hereby consents to join this case as a plaintiff pursuant  
to 29 U.S.C. 216(b).



Sabrina Penceal

CONSENT TO JOINDER

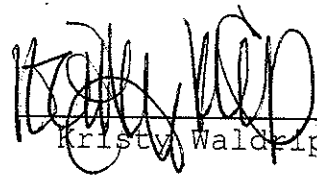
Shireef Jones, by signing below,  
hereby consents to join this case as a plaintiff pursuant to 29  
U.S.C. 216(b).

  
Shireef Jones



CONSENT TO JOINDER

Kristy Waldrip, by signing below,  
hereby consents to join this case as a plaintiff pursuant to 29  
U.S.C. 216(b).

  
\_\_\_\_\_  
Kristy Waldrip